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223996

November 17, 2008

Ms. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423

VIA ELECTRONIC FILING

Re: STB Finance Docket No. 35141  
U S Rail Corporation - Construction and Operation  
Exemption - Brookhaven Rail Terminal

Dear Ms. Quinlan,

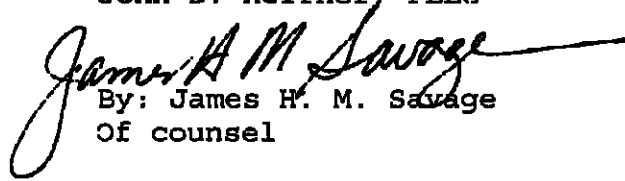
Petitioner U S Rail Corporation ("U S Rail") hereby joins in the Town of Brookhaven's (the "Town") request that the Town's motion to compel discovery responses be held in abeyance until further notice. The parties have met to begin discussing a framework for the possible resolution of this matter, and the Board's forbearance would be mutually beneficial.

For the same reason, U S Rail further requests the Board's permission to extend its time to file a response to the Town's Motion to Compel Discovery Responses for an additional 20 days. The current deadline for filing a response is Monday, November 24, 2008. If the Board were to grant this request, the new deadline would be Monday, December 15, 2008.

U S Rail has the consent of counsel for the Town of Brookhaven to this request.

We thank the Board for its time and consideration.

Respectfully submitted,  
John D. Heffner, PLLC

  
By: James H. M. Savage  
Of counsel

JHS/mhd

cc. Jessica Driscoll, Esq. (via fax)  
Robert A. Ryback

## CERTIFICATION OF PROOF OF SERVICE

I certify that I served this day a true copy of the within pleading upon all parties to this matter as per the following service list.

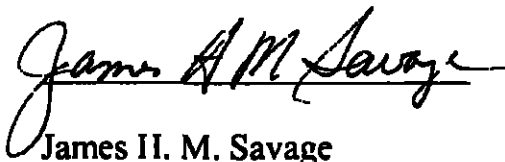
### SERVICE LIST

Party of Record:  
Town of Brookhaven

Mark A Cuthbertson & Jessica P Driscoll  
Law Offices of Mark A. Cuthbertson  
434 New York Avenue  
Huntington, NY 11743

Party of Record:  
New York State  
Department of Transportation

Robert A Ryback  
50 Wolf Road  
Albany, NY 12232

A handwritten signature in black ink, reading "James H. M. Savage". The signature is written in a cursive style with a horizontal line through the middle.

James H. M. Savage

Attorney for Petitioner

Dated: November 17, 2008